

BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

IN MEDICINE AND SURGERY

IN THE MATTER OF:

Case No.: 3436

BUDI BAHUREKSA, D.O.

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER**

Holder of License No. 3901

**For the practice of osteopathic medicine in the
State of Arizona**

On October 1, 2004, the AZ Board of Osteopathic Examiners (hereafter "Board") received a complaint from JL alleging possible violations of the Board's statute of unprofessional conduct.

On October 19, 2004, the Board notified Budi Bahureska, D.O. (hereafter known as Respondent”) of this complaint and requested a response to the allegations contained therein.

On October 29, 2004, the Respondent provided an answer to the Board and included a copy of the patient record.

On April 27, 2006, the Board conducted its initial review of this and voted to refer this matter to an Investigative Hearing.

On July 22, 2006 the Board invited the Respondent to an investigative hearing. The Respondent appeared for the proceeding and was represented by legal counsel, Peter Akmajian from Chandler & Udall. The Board voted to continue the investigative interview and directed staff to further investigate this matter, which included the Respondent completing a psychiatric evaluation.

On December 9, 2006, the Board conducted the continued Investigative Hearing. Respondent was present and represented by his legal counsel, Peter Akmajian, Esquire, Esquire.

After hearing testimony and considering the documents and evidence submitted, the

1 Board voted to enter the following Findings of Fact and Conclusions of Law, and Order of
2 Censure.

3 **JURISDICTIONAL STATEMENTS**

4 1. The Board is empowered, pursuant to A.R.S. § 32-1800 et seq., to regulate the
5 practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed,
6 registered, or permitted to practice osteopathic medicine in the State of Arizona.

7 2. Respondent is the holder of License No. 3901 issued by the Board for the practice
8 of osteopathic medicine in the State of Arizona.

9 **FINDINGS OF FACT**

10 1. On September 20, 2004 Respondent saw patient JL for a cardiovascular
11 examination, including an EKG and stress test. Patient JL accused Respondent of an
12 inappropriate sexual behavior during that examination. Patient told her friend immediately upon
13 leaving the Respondent's medical office, the attending nurse, Linda Sheldon, the next day and
14 filed a criminal report about the conduct of the Respondent to the Oro Valley Police department
15 on September 29, 2004.

16 2. Patient JL's complained and testified under oath before the Board on July 22,
17 2006 of the following conduct by Respondent during that examination:

- 18 a. Respondent asked her friend to leave the examining room, leaving her
19 alone with him.
20 b. Respondent asked her to remove her bra and then groped her breasts.
21 c. Respondent then pulled down her sweatpants and while wearing a glove,
22 massaged her clitoris, and inserted his fingers into her vagina.

23 3. After talking with patient JL on September 21, 2004, Nurse Linda Sheldon went
24 into the examination room used by Respondent and obtained a glove and other items from the
25 waste basket. The glove was eventually turned into the Oro Valley Police department.

26 4. Respondent, in his statements to the Oro Valley Police department and during his
Investigative Hearing sworn testimony on July 22, 2006 and December 9, 2006, denied any

1 inappropriate conduct during his examination on September 20, 2004 of patient JL. He denied
2 ever using a glove during the examination, groping her breasts, massaging her clitoris or placing
3 his fingers inside of her vagina.

4 5. The glove obtained from the office where the examination took place was
5 eventually tested for DNA by an Arizona Department of Public Safety criminalist on June 23,
6 2006. It was determined that there was no DNA on the inside of the glove and that on the
7 outside of the glove a DNA mixture was found. The major component matched patient JL and
8 the minor component was inconclusive. Pursuant to a phone call to the examiner on July 24,
9 2006, the minor component was such that Respondent could be neither included nor excluded.

10 6. Respondent underwent evaluations by both Dr. Sucher, an addictionologist, on
11 April 10, 2006 and Dr. Gray, a psychiatrist, on October 3 and 10, 2006.

12 7. Dr. Sucher's recommendation included Respondent's self determination to have
13 female chaperones present during female examinations. He also recommended that Respondent
14 attend a 'Maintaining of Professional Boundaries' CME course.

15 8. Dr. Gray's recommendation was more specific due to his belief that Respondent
16 was evasive in his answers during his evaluation. His recommendation included a professional
17 chaperone with signatures in the charts for monitoring, boundary violations and victim empathy
18 CMEs, the maintenance of a cognitive/behavioral risk management workbook and monitoring of
19 random reports submitted by patients, co-workers and supervisory staff for a period of six
20 months to one year.

21 9. The Board determined that based on its review of the information received and
22 the testimony of both the complainant JL and Respondent that the complainant JL was more
23 credible and that action should be taken against Respondent's license due to the performance of
24 an inappropriate examination.
25

CONCLUSIONS OF LAW

1. The conduct described in Findings of Fact 1 through 9 herein constitutes unprofessional conduct as defined by the following A.R.S. § 32-1854 subsections:

(6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard.

(38) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

(42) Engaging in a sexual conduct with a current patient

ORDER

Pursuant to the authority vested in the Board,

1. **IT IS HEREBY ORDERED** that Budi Bahureksa, D.O., Holder of Arizona Osteopathic Medical License number 3901, is hereby placed on **PROBATION** for a period of five (5) years from the date of this order pursuant to the provisions of A.R.S. § 32-1855 (E)(4).

2. Probation shall include the following terms:

a). Respondent shall include a professional chaperone when seeing female patients. The chaperone shall sign the charts of the patients for monitoring purposes.

b). Respondent shall attend continuing medical education classes in addition to the CME required to maintain licensure in the state of Arizona. The classes shall be in the areas of maintaining professional boundaries and victim empathy. The classes shall be pre-approved by the Executive Director of the Board.

c). Respondent shall maintain a cognitive/behavioral risk management workbook.

d). Respondent shall submit monitoring reports to the Board from random patients, co-workers and supervisory staff for a period of one (1) year.

ISSUED THIS 25th DAY OF JANUARY 2007.



ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

By: _____

Jack Confer, Executive Director

NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING

You have the right to request a rehearing or review of this matter pursuant to A.R.S. § 41-1092.09. The request for rehearing or review must be filed with the Arizona Board of Osteopathic Examiners within thirty (30) days. If you request a review or rehearing, you must base your request on at least one of the eight grounds for review or rehearing that are allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30 days has the effect of prohibiting you from seeking judicial review of the Board's decision in the AZ Courts.

Original "Findings of Fact, Conclusions of Law and Order for Probation" filed this 25th day of January, 2007 with the:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale AZ 85258-5539

Copy of the foregoing "Findings of Fact, Conclusions of Law and Order for Probation" send by certified mail, return receipt requested this 25th day of January, 2007 to:

Peter Akmajian, Esq.
CHANDLER & UDALL, LP
33 North Stone Avenue, Suite 2100
Tucson, Arizona 85701-1415
Attorney for Dr. Bahureksa

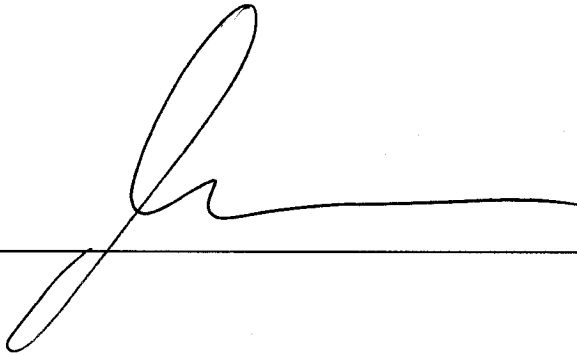
Budi Bahureksa, D.O.
1521 East Tangerine Road, Suite 315
Oro Valley, AZ 85755

Copies of the foregoing "Findings of Fact, Conclusions of Law and Order for Probation"

1 sent via regular mail/handdelivered this 25th day of January, 2007 to:

2 Blair Driggs, AAG
3 Office of the Attorney General CIV/LES
4 1275 West Washington
5 Phoenix AZ 85007

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A handwritten signature in black ink, appearing to be 'Blair Driggs', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long horizontal stroke extending to the right.